IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

JUDGES ORDER NO.107 OF 2007
IN
SUIT NO.361 OF 1997

Centurion Bank of Punjabl Ltd. ...Plaintiff
Vs.
APS Star Industries Ltd. & Ors. ...Defendants
And
Mr. Rohit Mehta & Anr. ...Sureties
U/s.145 of CPC 1908

Ms.Karishma Vora i/b. Wadia Ghandy & Co. for Plaintiff
Mr.K.Rane – Representative of Court Receiver present

CORAM: SMT. ROSHAN DALVI, J.
DATED: 14TH MARCH, 2007

P.C.

1. A Decree on admission has been passed in favour of the Plaintiffs, payable by installments. Upon payment of installments the Court Receiver has been appointed. Upon the defaults made, the Court Receiver who came to be appointed took possession of the movable properties which are certain machines belonging to the Plaintiffs. The Court Receiver has put it on auction. A valuation was sought and a reserve price has been fixed at Rs.11.90 Lakhs. The highest offer which is received for two of the machines,

mentioned in Exhibit-A to the affidavit in support of the Judges Order is Rs.4.1 Lakhs and Rs.1.5 Lakhs for machines at item Nos. 5 and 7 of Exhibit-A.

2. It is argued on behalf of the Plaintiff that the second and the third highest offer are far lower, and those offers are for disposal of the machines as scrap. It is contended that only because the higher bidder is the end-user, the amount of the bid for these two machines is far higher than the reserved price. The machinery is an item which tends to deteriorate and devalue by under-use. The Applicant/Plaintiff states that the Defendant's business has been closed since 1996. The machinery is, therefore, likely to junk. In view thereof, the valuation of the machinery which cannot be made upon the premise that it is in working condition, may be taken to be higher than its value under the aforesaid circumstances.

3. The Judges Order has been served upon the Defendant's Advocate on 1st March, 2007. Thereafter, two notices for this application have been served on 9th March, 2007 and 13th March, 2007. The Defendants have failed to appear or be represented by the Advocate.

4. It would be prudent to sell the machinery before it deteriorates and devalues further. The Court Receiver is

allowed to sell the machinery at item Nos.5 and 7 to the highest bidder at the price offered in their bid, which is Rs.1.5 Lakhs and Rs.4.1 Lakhs respectively, after 10 days from today. The Plaintiff's Advocate shall send a copy of this order to the Defendant's Advocate. If the Defendants obtain any higher offer for the said machinery within 10 days from today, the Court Receiver shall consider the same and allow the highest bidder also, to raise his offer and sell it at the highest obtainable price. If no further offer is received, the purchaser shall be entitled to take possession of the machinery upon issue of Pay Orders in favour of the Plaintiffs.

5. The Judges Order disposed off accordingly.

(SMT.ROSHAN DALVI, J.)